

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

QUINTA SANDERS)	
)	
Plaintiff,)	
)	
v.)	
)	
MISSISSIPPI COUNTY, MISSOURI,)	Case No. 1:18-CV-00269
CITY OF CHARLESTON, MISSOURI,)	
CORY HUTCHESON, SALLY YANEZ,)	
RYAN HILL, JOE ROSS,)	
JOSH MALDONADO,)	
DECOTA MCGLOTHLIN,)	
FAITH ALTAMIRANO,)	
ROBERT HEARNES,)	
CURTIS ARNOLD,)	
ZACHARY MATNEY, and)	
AUSTIN HENSON)	
)	
Defendants.)	

**JOINT APPLICATION FOR APPROVAL OF THE PURCHASE OF ANNUITIES FROM
THE MINORS' DISTRIBUTION OF THE SETTLEMENT PROCEEDS FROM THE
SETTLEMENT APPROVED BY THE COURT FOR THE INJURIES TO AND DEATH
OF TORY D. SANDERS, DECEASED WITH THE CITY OF CHARLESTON,
MISSOURI, ROBERT HEARNES, CURTIS ARNOLD, ZACHARY MATNEY, AND
AUSTIN HENSON ONLY**

Plaintiff Quinta Sanders, Individually, as representative of the Class 1 Beneficiaries under the Missouri Wrongful Death Statute Mo.Rev.Stat. §537.080 (2016), and as an heir and beneficiary of Tory D. Sanders, deceased (“Plaintiff”), and the City of Charleston, Missouri, Robert Hearnese, Curtis Arnold, Zachary Matney, and Austin Henson (“City of Charleston Defendants”) (Plaintiff and the City of Charleston Defendants referred to collectively as the “Parties”), by and through counsel, pursuant to Mo.Rev.Stat. §507.184 (2016) apply to the Court for an Order approving the purchase of annuities from the Minors’ distribution of the Settlement Proceeds from the settlement for the injuries to and death of Tory D. Sanders, deceased and the

collection and distribution of the Settlement Proceeds to the heirs and beneficiaries of Tory D. Sanders, deceased approved by the Court on April 16, 2021, and in support thereof, alleges and states:

1. By Second Amended Order of the Court dated March 11, 2021, Quinta Sanders was appointed the Next Friend of T.M.D.S., Summer Lea Barrett was appointed the Next Friend of T.D.S. and D.C.B., Jocelyn Cox was appointed the Next Friend of J.A.M.C., T.D.Q.S., J.T.E.C., and L.C., and Dreama Smith was appointed as the Next Friend of J.S. and Z.S. to represent each Minor child's interest in the settlement with the City of Charleston Defendants.
2. The Court heard evidence from the Parties in this case on April 14, 2021 about a proposed offer of the City of Charleston Defendants for the settlement of the claims asserted by the Plaintiff and other Class 1 beneficiaries for the injuries to and death of Tory D. Sanders, deceased against the City of Charleston Defendants with the Court approving the settlement pursuant to Mo.Rev.Stat. §§ 507.184 and 537.095 on April 16, 2021 for the injuries to and death of Tory D. Sanders, deceased against the City of Charleston Defendants only in the amount of \$500,000.00 to be paid by the City of Charleston Defendants, and further approving the distribution of the Settlement Proceeds to the heirs and beneficiaries of Tory D, Sanders, deceased, including the purchase of annuities for the Minors T.M.D.S., T.D.S., D.C.B., J.A.M.C., T.D.Q.S., J.T.E.C., L.C., J.S. and Z.S. in the amount of \$26,645.09 for each Minor as confirmed in the Order filed herein dated April 16, 2021. (Doc. #85)
3. The Court approved a distribution from the Settlement Proceeds in the total amount of \$239,805.81 for the purchase of nine annuities, one for each Minor, as being fair and

reasonable and in the best interest of the Minor heirs and beneficiaries of Tory D.

Sanders, deceased. Savers Property & Casualty Insurance Company, on behalf of the City of Charleston Defendants, will purchase an annuity policy for each Minor as identified in Paragraph 2 from Metropolitan Tower Life Insurance Company upon the Court's approval. The present cost of each annuity for each of the nine minors is \$26,645.09.

4. The Plaintiff and the City of Charleston Defendants now request the Court to approve the distribution from the Settlement Proceeds approved by the Court in the Order dated April 16, 2021 filed herein for the purchase of an annuity policy for each Minor as described in Paragraph 2 above by Savers Property & Casualty Insurance Company, on behalf of the City of Charleston Defendants, from Metropolitan Tower Life Insurance Company with a periodic payment from each annuity policy to be made payable to each Minor after each Minor becomes eighteen (18) years of age and is no longer a Minor.
5. The Plaintiff and the City of Charleston Defendants advise the Court that the sum of \$26,645.09 for each of the nine (9) Minors for a total of \$239,805.81 from the Settlement Proceeds distributed to the Minors as approved by the Court in the Order dated April 16, 2021 shall be used to purchase a structured settlement annuity for the benefit of each Minor as identified in Paragraph 2. Savers Property & Casualty Insurance Company, as the insurer for the City of Charleston Defendants, shall fund a tax-free structured settlement annuity for each Minor from Metropolitan Tower Life Insurance Company (an A.M. Best A+15 rated life carrier) that will provide a periodic payment to each Minor after each Minor becomes eighteen (18) years of age and is no longer a Minor. The Periodic payment to each Minor will be assigned to MetLife Assignment Company, Inc.

by way of a Qualified Assignment and Release Agreement and the periodic payment to each Minor will be guaranteed by Metropolitan Tower Life Insurance Company by an Evidence of Guarantee that guarantees the payment obligation of MetLife Assignment Company, Inc. A copy of the Qualified Assignment and Release Agreement including a “Description of Periodic Payments” to all of the Minors will be filed herein upon the purchase of the annuities and the approval of the purchase of the annuities from Minors’ distribution from the Settlement Proceeds by the Court.

6. In accordance with the Qualified Assignment and Release Agreement, Metropolitan Tower Life Insurance Company through MetLife Assignment Company, Inc. shall make the following periodic payment to each Minor:

- I. **Periodic Payment, Payable to D.C.B. (“Payee”):**
\$34,711.27 Guaranteed lump sum, payable on 03/04/2034.
- II. **Periodic Payment, Payable to J.T.E.C. (“Payee”):**
\$33,413.96 Guaranteed lump sum, payable on 11/20/2032.
- III. **Periodic Payment, Payable to J.A.M.C. (“Payee”):**
\$30,108.89 Guaranteed lump sum, payable on 03/14/2029.
- IV. **Periodic Payment, Payable to L.C. (“Payee”):**
\$36,766.73 Guaranteed lump sum, payable on 01/12/2036.
- V. **Periodic Payment, Payable to T.D.Q.S. (“Payee”):**
\$30,840.58 Guaranteed lump sum, payable on 01/27/2030.
- VI. **Periodic Payment, Payable to T.M.D.S. (“Payee”):**
\$31,788.79 Guaranteed lump sum, payable on 02/13/2031.
- VII. **Periodic Payment, Payable to T.D.S. (“Payee”):**
\$29,826.24 Guaranteed lump sum, payable on 11/06/2028.
- VIII. **Periodic Payment, Payable to J.S. (“Payee”):**
\$33,985.57 Guaranteed lump sum, payable on 06/19/2033.
- IX. **Periodic Payment, Payable to Z.S. (“Payee”):**
\$35,280.63 Guaranteed lump sum, payable on 09/17/2034.

All sums set forth above constitute damages on account of personal physical injuries or sickness, within the meaning of §104(a)(2) of the Internal Revenue Code of 1986, as amended. The present value amount of the above referenced annuity payments to all Minors is \$239,805.81 (\$26,645.09 for each Minor).

7. Since the value of the settlements for each Minor is not greater than Ten Thousand Dollars (\$10,000.00) to be paid to each Minor during the time that each of them is a Minor, an estate has not been opened for any Minor and the Next Friends for each Minor have not posted a bond pursuant to Missouri Rule of Civil Procedure 52.02 and Mo.Rev.Stat. §507.150 (2016). The Parties believe and represent to the Court that it is in the best interest of each Minor to purchase the annuities from the Settlement Proceeds and believe it is in the best interest of each Minor to distribute the Settlement Proceeds to each Minor as requested in Paragraphs 5 and 6. The Parties request the Court to approve the distribution of the Settlement Proceeds to each Minor as requested in Paragraphs 5 and 6 for the purchase of the annuities without an estate being opened and without any Next Friend posting a bond because the settlement payment to each Minor from each annuity will be made to each Minor after each Minor reaches the age of eighteen (18) years of age and is no longer a Minor;
8. The Parties request the Court to order the Next Friends to execute all documents required for the purchase of an annuity for each Minor including a Settlement Agreement and General and Full Release of All Claims for the Injuries to and Death of Tory D. Sanders, Deceased against Robert Hearnese, Curtis Arnold, Zachary Matney, Austin Henson and the City of Charleston, Missouri Only, the Qualified Assignment and Release Agreement, and a Receipt for the payment from the Settlement Proceeds distributed to each Minor

for the purchase of the annuities upon the approval of the purchase of the annuities from each Minors' distribution of the Settlement Proceeds by the Court which will be filed herein upon execution and purchase of the annuities;

9. The payment of the Settlement Proceeds on behalf of each Minor for the purchase of an annuity as requested herein is not to be construed as an admission of liability on the part of the City of Charleston Defendants with each City of Charleston Defendant denying any negligence or fault with respect to the alleged incidents or occurrences allegedly causing the injuries to and death of Tory D. Sanders, deceased on May 5, 2017; and
10. Plaintiff requests leave of Court to waive a jury herein and to submit all issues to the Court for approval of the purchase of annuities for each Minor from the Settlement Proceeds distributed to each Minor from the settlement with the City of Charleston Defendants approved by the Court on April 16, 2021 as requested herein.

WHEREFORE, Plaintiff and City of Charleston Defendants pray the Court to enter its Order **FINDING, ADJUDGING AND DECREERING**:

- (a) That Plaintiff is granted leave to waive a jury herein and to submit all issues to the Court for the approval of the purchase of annuities for each Minor from the Settlement Proceeds distributed to each Minor from the settlement with the City of Charleston Defendants approved by the Court on April 16, 2021;
- (b) That by Second Amended Order of the Court dated March 11, 2021, Quinta Sanders was appointed the Next Friend of T.M.D.S., Summer Lea Barrett was appointed the Next Friend of T.D.S. and D.C.B., Jocelyn Cox was appointed the Next Friend of J.A.M.C., T.D.Q.S., J.T.E.C., and L.C., and Dreama Smith was

appointed as the Next Friend of J.S. and Z.S. to represent each Minor child's interest in the settlement with the City of Charleston Defendants.

- (c) That the Court approved a settlement pursuant to Mo.Rev.Stat. §507.184 and §537.095 on April 16, 2021 for the injuries to and death of Tory D. Sanders, deceased against the City of Charleston only in the amount of \$500,000.00 to be paid by the City of Charleston Defendants and approved the distribution of the Settlement Proceeds to the heirs and beneficiaries of Tory D. Sanders, deceased, including the purchase of annuities for the Minors T.M.D.S., T.D.S., D.C.B., J.A.M.C., J.T.E.C., L.C., T.D.Q.S., J.S. and Z.S. in the amount of \$26,645.09 for each Minor as confirmed in the Order filed herein dated April 16, 2021 (Doc. #85);
- (d) That the Court approved a distribution from the Settlement Proceeds in the total amount of \$239,805.81 for the purchase of nine annuities, one for each Minor, as being fair and reasonable and in the best interest of the Minor heirs and beneficiaries of Tory D. Sanders, deceased. Savers Property & Casualty Insurance Company, on behalf of the City of Charleston Defendants, will purchase an annuity policy for each Minor from Metropolitan Tower Life Insurance Company upon the Court's approval. The present cost of each annuity for each of the nine minors is \$26,645.09.
- (e) That the Court approves the distribution from the Settlement Proceeds in the amount of \$26,645.09 for the purchase of an annuity policy by Savers Property & Casualty Insurance Company, on behalf of the City of Charleston Defendants, for and on behalf of each Minor from Metropolitan Tower Life Insurance Company

- with a periodic payment from each annuity being made payable to each Minor after each Minor becomes eighteen (18) years of age and is no longer a Minor;
- (f) That the sum of \$26,645.09 for each of the nine (9) Minors for a total of \$239,805.81 from the Settlement Proceeds distributed to the Minors as approved by the Court in the Order dated April 16, 2021 shall be used to purchase a structured settlement annuity for the benefit of each Minor. Savers Property & Casualty Insurance Company, as the Insurer for the City of Charleston Defendants, shall fund a tax-free structured settlement annuity from Metropolitan Tower Life Insurance Company, (an A.M. Best A+15 rated life carrier) that will provide a periodic payment to each Minor after each Minor becomes eighteen (18) years of age and is no longer a Minor. The periodic payment for each Minor will be assigned to MetLife Assignment Company, Inc. by way of a Qualified Assignment and Release Agreement and the periodic payment for each Minor will be guaranteed by Metropolitan Tower Life Insurance Company by an Evidence of Guaranty that guarantees the payment obligation of MetLife Assignment Company, Inc. A copy of the Qualified Assignment and Release Agreement including a “Description of Periodic Payments” for all Minors will be filed herein upon the purchase of the annuities and approval of the purchase of the annuities from the Minors’ distribution from the Settlement Proceeds by the Court.
- (g) That in accordance with the Qualified Assignment and Release Agreement, Metropolitan Tower Life Insurance Company through MetLife Assignment Company, Inc. shall make the following periodic payment to each Minor:

a. Periodic Payment, Payable to D.C.B. (“Payee”):
\$34,711.27 Guaranteed lump sum, payable on 03/04/2034.

- b. Periodic Payment, Payable to J.T.E.C. ("Payee"):**
\$33,413.96 Guaranteed lump sum, payable on 11/20/2032.
- c. Periodic Payment, Payable to J.A.M.C. ("Payee"):**
\$30,108.89 Guaranteed lump sum, payable on 03/14/2029.
- d. Periodic Payment, Payable to L.C. ("Payee"):**
\$36,766.73 Guaranteed lump sum, payable on 01/12/2036.
- e. Periodic Payment, Payable to T.D.Q.S. ("Payee"):**
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- f. Periodic Payment, Payable to T.M.D.S. ("Payee"):**
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- g. Periodic Payment, Payable to T.D.S. ("Payee"):**
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All sums set forth above constitute damages on account of personal physical injuries or sickness, within the meaning of §104(a)(2) of the Internal Revenue Code of 1986, as amended. The present value amount of the above referenced annuity payments to all Minors is \$239,805.81 (\$26,645.09 for each Minor).

- (h) Since the value of the settlement for each Minor is not greater than Ten Thousand and no/100 Dollars (\$10,000.00) to be paid to each Minor during the time that each of them is a Minor, no estate/conservatorship will be opened for any Minor and no bond pursuant to Missouri Rule of Civil Procedure 56.02 and Mo.Rev.Stat. §507.150 (2016) will be posted;
- (i) That Quinta Sanders, as Next Friend of T.M.D.S., Summer Barrett, as Next Friend of T.D.S. and D.C.B., Jocelyn Cox, as Next Friend of J.A.M.C., T.D.Q.S., J.T.E.C., and L.C., and Dreama Smith, as Next Friend of J.S. and Z.S., Minor children be ordered, empowered, authorized, and directed to execute all

documents required for the purchase of annuities for each Minor including a Settlement Agreement and General and Full Release of All Claims for the Injuries to and Death of Tory D. Sanders, Deceased Against Robert Hearnese, Curtis Arnold, Zachary Matney, Austin Henson, and the City of Charleston, Missouri Only, the Qualified Assignment and Release Agreement, and a Receipt for the Payment from the Settlement Proceeds distributed to each Minor for the purchase of the annuities upon the approval of the purchase of the annuities from each Minors' distribution of the Settlement Proceeds by the Court which will be filed herein upon the execution and the purchase of the annuities;

- (j) That the payment of the Settlement Proceeds on behalf of each Minor for the purchase of an annuity as requested herein is not to be construed as an admission of liability on the part of the City of Charleston Defendants with each City of Charleston Defendant denying any negligence or fault with respect to the alleged incidents or occurrences allegedly causing the injuries to and death of Tory D. Sanders, deceased on May 5, 2017; and
- (k) For such other and further relief that the Court deems just and proper.

Respectfully submitted,

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***ATTORNEY FOR CITY OF CHARLESTON
DEFENDANTS***

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the attorney whose name appears above signed the original of this pleading and that true and correct copy of the foregoing was filed with the Clerk of the Court to be served by the operation of the Court's electronic filing system and sent via First Class U.S. Mail this 14th day of May, 2021 to:

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